IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Bail Appl..No. 4757 of 2007()

CRMP.1553/2007 of ADDL.DISTRICT COURT-I,MAVELIKKARA
CRIME NO.308/2007 OF KAYAMKULAM POLICE STATION

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PETITIONER/2ND ACCUSED:

MR. MUJEEB RAHMAN, S/O. ABOO BAKER,
SAKEENA MANZIL, VALAYAKKAKATHTHARAYIL,
NEAR FIRE STATION, KAYAMKULAM.

BY ADV. SRI.J.KRISHNAKUMAR

RESPONDENTS: COMPLAINANT:

SUB INSPECTOR OF POLICE,
KAYAMKULAM POLICE STATION, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4757 of 2007

Dated this the 7th day of August 2007

O R D E R

Application for anticipatory bail. The petitioner is the second accused. Altogether there are four accused persons. They face allegations in the crime registered inter alia under Sections 308 and 324 read with 34 I.P.C. The crux of the allegations is that the accused persons (accused 1 to 3 are named in the F.I.R) had allegedly attacked the de facto complainant, who had gone to a shop for making purchase, with dangerous weapons - knives. The de facto complainant has suffered serious injuries. Investigation is in progress. The petitioner has not been arrested so far. He apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He has been arrayed as an accused on account of political animosity. He apprehends physical harm if he were arrested by the police. In these circumstances it is prayed that subject to appropriate conditions, anticipatory bail may be granted to the petitioner.

3. Application is opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that the injuries suffered are grievous. The petitioner, according to the prosecution, belongs to a goonda gang of the locality. Dangerous weapons were used. Serious injuries including serious incise injury on the neck were caused to the victim. There are absolutely no circumstances justifying the invocation of the discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor.

4. Having heard the rival contestants, I am satisfied that there is merit in the opposition by the learned Public Prosecutor. The learned Public Prosecutor has read over to me the nature of injuries suffered by the victim recorded in the wound certificate. I am certainly not persuaded to agree that this is a fit case where directions under Section 438 Cr.P.C can or ought to be issued in favour of the petitioner. The petitioner, I am satisfied, must appear before the investigating officer or the learned Magistrate and seek regular bail in the ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer

or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

6. The petitioner airs an apprehension that he may be manhandled by the police. In that event, the petitioner can certainly opt to surrender directly before the learned Magistrate.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007